

Department of Justice

§ 48.14

which govern civil proceedings in matters not involving trial by jury in the courts of the United States shall apply, but these rules may be relaxed if the ends of justice will be better served in so doing: Provided, that the introduction of irrelevant, immaterial, or unduly repetitious evidence is avoided. Only parties to the proceedings may present evidence, or cross-examine witnesses.

(b) The applicants and the Assistant Attorney General in charge of the Antitrust Division shall be parties in any hearing held hereunder. Other persons may intervene as parties as provided in § 48.11.

(c) The Assistant Attorney General for Administration shall procure the services of a stenographic reporter. One copy of the transcript produced shall be placed in the public docket. Additional copies may be purchased from the reporter or, if the arrangement with the reporter permits, from the Department of Justice at its cost.

(d) Following the hearing the administrative law judge shall render to the Attorney General his recommendation that the proposed arrangement be approved or denied approval in accordance with the standards of the Act. The recommendation shall be in writing, shall be based solely on the hearing record, and shall include a statement of the administrative law judge's findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law or discretion presented on the record. Copies of the recommendation shall be filed and sent to each party.

(e) Within 30 days of the date the administrative law judge files his recommendation, any party may file written exceptions to the recommendation for consideration by the Attorney General. Parties shall then have a further 15 days in which to file responses to any such exceptions.

§ 48.11 Intervention in hearings.

(a) Any person may intervene as a party in a hearing held under these regulations if (1) he has an interest which may be affected by the Attorney General's decision, and (2) it appears that his interest may not be ade-

quately represented by existing parties.

(b) Application for intervention shall be made by filing in accordance with § 48.3(a) and (b), within 20 days after a hearing has been ordered, a statement of the nature of the applicant's interest, the way in which it may be affected, the facts and reasons in support thereof and the reasons why the applicant's interest may not be adequately represented by existing parties.

(c) Existing parties may file a statement in opposition to or in support of an application to intervene within 10 days of the filing of the application.

(d) Applications for intervention shall be decided by the Attorney General.

(e) Intervenors shall have the same rights as existing parties in connection with any hearing held under these regulations.

§ 48.12 *Ex parte* communications.

No person shall communicate on any matter related to these proceedings with the administrative law judge, the Attorney General or anyone having decisional responsibility, except as provided in these regulations.

§ 48.13 Record for decision.

(a) The record on which the Attorney General shall base his decision in the event a hearing is not held shall be comprised of all material filed in accordance with these regulations, including any material that has been ordered withheld from public disclosure.

(b) If a hearing is held, the record on which the Attorney General shall base his decision shall consist exclusively of the hearing record, the examiner's recommendation and any exceptions and responses filed with respect thereto.

§ 48.14 Decision by the Attorney General.

(a) The Attorney General shall decide, on the basis of the record as constituted in accordance with § 48.13, whether approval is warranted under the Act. In rendering his decision, the Attorney General shall file therewith a statement of his findings and conclusions and the reasons therefor, or where a hearing has been held, he may